

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.11144 of 2014

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1. Smt. Shashi Prasad Keshari wife of Late Rajendra Prasad Keshari, resident of
Sahjadpur Andar Killa, Police Station Sadar Hajipur, District- Vaishali

.... Petitioner/s

Versus

1. The State of Bihar through District Magistrate, Hajipur, District Vaishali
2. The District Magistrate, Vaishali at Hajipur
3. The Commissioner, Municipal Corporation through its Chairman, Hajipur
Municipality, District Vaishali
4. The Executive Officer, Hajipur Municipality, Hajipur, District Vaishali

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr. Shivendra Kumar Sinha, Adv
For the Respondent/s : Mr. Surendra Kishore Thakur, Adv

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CORAM: HONOURABLE MR. JUSTICE V. NATH
ORAL JUDGMENT
Date: 25-07-2016

Heard learned counsel appearing for the petitioner
and the learned counsel appearing for the respondent nos. 3 and 4.

2. The plaintiff is the petitioner in this application and
is aggrieved by the order by which the learned court below has
allowed the prayer of defendant nos. 3 and 4 for examining one
witness in the suit. The learned counsel for the petitioner has



submitted that the prayer of the defendant nos. 3 and 4 in the suit for examining the witnesses after the evidence was closed was clearly malafide as substantial delay has been caused in the disposal of the suit due to the inaction of the aforesaid defendants. Mr. Sinha has further submitted that learned court below has not properly appreciated the facts and circumstances of the case and has also drawn the attention of this Court to the averments made in the counter affidavit filed on behalf of those respondents in order to substantiate the submission that the defendants have not been acting fairly and their intention is to only delay the disposal of the suit.

3. The learned counsel for the respondent nos. 3 and 4, however, has supported the impugned order and has further submitted that it was due to the prayer for adjournment made by the plaintiff in the suit on the ground of pendency of the present application before this Court that one witness who has to be examined on behalf of the Defendant Nos. 3 and 4 could not be examined so far.

4. After considering the submissions and perusal of the impugned order, it is manifest that the learned court below has allowed the prayer of the Defendant Nos. 3 and 4 only to the extent to examine one witness on their behalf and has further granted only two dates for the examination of the said witness recording that in

consequence of failure to examine the said witness, the evidence would be again closed and the suit would be placed for argument.

5. In view of the nature of the order and in view of the fact that civil right is involved for determination in the suit, this Court is not inclined to invoke its jurisdiction under Article 227 of the Constitution of India for interdicting the impugned order.

6. The application is accordingly dismissed.

7. The learned court below is directed to take up the proceeding of the suit expeditiously and dispose it of as soon as possible.

(V. Nath, J)

Ranjan/-

AFR/NAFR	NAFR
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